IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5905 of 2005

For Approval and Signature:

THE HON'BLE MR.JUSTICE SHARAD D.DAVE

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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RAJESH @ RAJU NATVARLAL SONI - Petitioner(s)

Versus

DISTRICT MAGISTRATE &3 - Respondent(s)

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Appearance :

MR HR PRAJAPATI for Petitioner No(s).: 1.

MR MR PRAJAPATI for Petitioner No(s).: 1.

RULE SERVED BY DS for Respondent No(s).: 1,2.

MR RC KODEKAR, AGP for Respondent No(s).: 3.

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CORAM :THE HON'BLE MR.JUSTICE SHARAD D.DAVE

Date : 15/06/2005

ORAL JUDGMENT

1. By filing this petition, the petitioner detenu has challenged the detention order dated 31.1.2005 passed by the District Magistrate, Kachchh - Bhuj in exercise of the powers conferred upon him under sub-section (1) of Section 3 of the Gujarat Prevention Anti-social Activities Act, 1985 (“the Act” for short), as, the Detaining Authority found that the detenu is a “bootlegger” and is required to be detained under the preventive detention, so that, he may not continue with such type of illegal activities.
2. Along with the detention order, the detenu was also served with the grounds of detention of the same date. In the said grounds, there is a reference to eighteen criminal cases which are filed under the provisions of the Bombay Prohibition Act. In the grounds of detention, the statements of certain witnesses have been recorded.
3. At the time of hearing of this petition, it is argued by the learned advocate for the petitioner that the petitioner has made representation on 31.1.2005 and till today, the detaining authority has not decided the same, and, therefore, continued detention of the petitioner is vitiated, and, therefore, impugned order of detention is required to be quashed and set aside. Learned advocate appearing for the petitioner has relied upon the decision in the case of Rajammal Vs. State of Tamil Nadu and another, reported in AIR 1999 SC 684 and the decision in the case of Ramesh Alis Kalia Vs. State of UP and others, reported in 1995 Supp (4) SCC 569.
4. On the other-hand, Mr.Bhate, learned AGP has tried to support the impugned detention order passed against the petitioner. Affidavit-in-reply is filed on behalf of respondent no.1 wherein in para 8 of the affidavit-in-reply, it is stated that the representation has been forwarded to the Home Department, State of Gujarat on 30.3.2005.
5. Considering the facts and circumstances of the case and considering the judgments referred to above, in my view, it is clear that the representation of the petitioner forwarded to the Home Department, State of Gujarat and the same has remained till date undecided. Under the circumstances, I have no option but to quash and set aside the detention order on the ground that the representation of the petitioner detenu has not been disposed of till date.
6. In view of what is stated above, the petition is allowed. The order of detention dated 31.1.2005 is quashed and set aside. The detenu Rajesh @ Raju Natvarlal Soni is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly.

(SHARAD D DAVE, J)

srilatha